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**MAY 24 2000**

**DIVISION OF  
OIL, GAS AND MINING**

May 22, 2000

D. Wayne Hedburg  
Permit Supervisor  
Department of Natural Resources  
Division of Oil, Gas and Mining  
Cedar City Field Office  
176 DI East Sargent Drive  
Cedar City, UT 84720

**RE: Hecla Mining Company, Escalante Mine and Mill Site**

Dear Mr. Hedburg:

Hecla Mining Company has reviewed your letter of September 21, 1999 regarding our request for surety reduction. After reviewing the approved reclamation plan and related correspondence over the past several years, there are some concerns regarding the listed conditions and the recent changes in policy. By an agreement dated September 11, 1998, Hecla sold the property "as is, where is," with the condition that Dixie Cable Services clean up the property in accordance to existing laws and the post mining use. In fact, our sales price was adjusted downward significantly to reflect that activity under the contract.

First, regarding the three conditions to be resolved, comments are provided below:

Condition #1 – Required that all other permits and/or clearances be obtained from the appropriate federal, state, and local authorities having jurisdiction over the proposed post-mining industrial land use. *"Would you please provide us with a listing of the regulatory permits and/or clearances that have been obtained to date. Also identify those that are still pending."*

This condition on Hecla is inappropriate and should be directed to Dixie Cable, if you have concerns about the land use.

Condition #2 – Required that the private property dispute concerning the issue of clear fee title to the property be resolved between the BLM, the School Institutional Trust Lands Administration (SITLA) and Hecla Company. *"To date we have no confirmation that this issue has been resolved. During an August 2, 1999, telephone conversation between Angela Williams (BLM – State office) and Lynn Kunzler of my staff, we were informed that this issue has not yet been resolved. The surface ownership in Section 2 (see Figure 1 – labeled Hecla property) is still apparently held by the BLM."*





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Hecla has contacted Angela Williams and her supervisor several times regarding this issue, attempting to get the issue resolved. We were informed that there will be an attempt to get the land exchange resolved during the week of October 17<sup>th</sup>, apparently, with no results. The property sales agreement with Dixie Cable fully disclosed the land ownership issue. Rancher's obtained a deed to this property when they purchased it from the State of Utah. Therefore, if title is somehow defective we will be discussing this with the State of Utah. This issue is best addressed by the State of Utah and the BLM, and has no bearing on the reclamation plan. If the mine and mill were still operating would the State require the mill be closed and the land reclaimed while the land issue was pending?

Condition #3 – Required an updated surface map outlining the disturbed areas to remain under Hecla's control and those being effectively transferred. Acreage figures, disturbed area boundaries, property ownership and section corners must be clearly shown on map. *"Figure 1, does not include the disturbed acreage figures or outline the disturbed area boundaries (only the property boundaries are highlighted on the map). Please update this figure/map to include this information. This information is needed to assist us in determining the disturbed acreage to remain under Hecla's reclamation surety."*

The only area at the Escalante site that Hecla currently is responsible for or controls is the tailing impoundment. The impoundment has been reclaimed except for a natural increase in vegetation from about 40% to 70% which should be accomplished in 2000 or 2001. Once the natural vegetation reaches 70% cover compared to the surrounding area, the fence is to be changed, and the road to the tailing impoundment scarified and seeded. Hecla's only right is the right of ingress and egress to the tailings impoundment. A property description (Instrument No. 33443, Book 491, Page 631) of the property transferred to Dixie Cable Services "as is", "where is", was previously submitted. Dixie Cable Services is currently using a major portion of the land surface for equipment and material storage as well as using the buildings, which were previously used for mining, for their activities.

A map of property currently controlled by Hecla is attached. The property boundaries, section corners, property ownership, disturbed area and acreage are shown on the map.

In the July 2, 1980 Notice of Intent (including the reclamation plan) was given by the state on March 11, 1981 and there is no mention of reclamation of the waste pile. Item 11.a paragraph 4 of the reclamation plan states:

*"During the course of the project, waste rock mined as a result of driving the decline and other underground openings will be stockpiled on the surface. The waste rock consists of rhyolite. Some of it will be utilized for surface and underground roads."*



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Hecla's sales agreement with Dixie Cable Services contains a covenant for "waste rock not being removed or redistributed on the property".

Furthermore, the Utah hazardous waste regulations contain the Bevill exemption for "solid waste from the extraction, beneficiation, and processing of ores and minerals..." needed a citation for the regulations. Thus, by definition, the waste rock is not a hazardous waste. It is not really a "waste" but rather overburden that has been removed to get at the ore material.

Also, in a letter dated August 30, 1994 from the State of Utah, Department of Natural Resources to Mr. Alan Wilson, the bond amount is specified and items to be included in the clean up are identified. There is no mention of reshaping or adding topsoil to the waste rock pile. The addition of these activities to the reclamation plan now violates the following state statute and regulation:

- The Utah Mined Land Reclamation Act (at 40-8-7. (2)) states that "No rule established by the board with respect to mined land reclamation shall have retroactive effect on existing reclamation plans included as a part of an approved notice of intention to commence mining operations which was approved prior to the effective date of the rule."
- Subsequent state rules, effective 1 November 1988, provide that "these rules apply to any revisions to an approved notice of intentions filed subsequent to the effective date of these rules". (R647-1-102.1.11).

In addition, we do not believe the waste rock pile will have an adverse impact on the environment. Precipitation in the area is 9 – 12 inches and evaporation is approximately 50 inches. The BLM has stated that "Annual average precipitation in the area for soil moisture replenishment is 5.8 inches from October to April (4 October 1993 correspondence to Hecla). The depth to groundwater is 250 feet to 350 feet. In addition, several groundwater parameters are naturally elevated above applicable standards. Therefore, we do not believe there can be adverse impact to groundwater. (See also the study by Grant, Schreiber, and Associates that was submitted with the tailings pond closure plan.)

Finally, in reference to Item #3 regarding the need to remove specific facilities at the site, it is up to Dixie Cable Services to judge what they will use in the future. Hecla has no right removing or modifying anything on the property that was sold to Dixie Cable. Again, the property was sold "as is, where is", with Dixie Cable Services responsible to abide with existing rules and regulation and governing laws. The sale included the structures that were in place at the site.

Your letter also referenced the following three items of concern from test results of the Kleinfelder report:

1. **Clean up of mining related hazardous wastes.** This includes the residue from the thickener tank and the plant wash down water. Data from the sampling indicated



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elevated level of metals and cyanide. According to the Utah Division of Solid and Hazardous Waste, these constituent levels would be considered a hazardous waste and need to be handled and disposed of accordingly. *We are meeting in-house concerning the Kleinfelder environmental report in mid October. At a minimum, an acceptable plan to properly dispose of all residual deleterious/hazardous materials that remain on the mine/mill property will be required, prior to the bond release/post mining land use change.*

The property was sold at a discounted price with the agreement that the purchaser would clean up and dispose of material in accordance with applicable laws. Residue in the thickener tank and the plant wash down water are definitely part of this agreement. (See Exhibit C of the previously submitted sales agreement and letter dated September 15, 1999.) As mentioned above, these materials are not "hazardous wastes" by definition.

2. **Reclamation of the waste rock pile.** The Division of Solid and Hazardous Waste has informed us that the residual metal concentration levels (principally lead) in the waste rock pile may have the potential to create an environmental (solids and/or surface water) contamination problem. The original mine plan proposed to use the waste rock material as road base within the mine site area. Under the present circumstances, this proposal is no longer applicable or acceptable. *Unless it can be demonstrated that the waste rock pile is not a significant source of environmental contamination, Hecla will need to reclaim this residual mine feature. We would suggest the following: regrade the pile to a 2h:1v (or less) slope, cover the surface with a least 1 foot of topsoil and revegetated with an approved seed mix. We would consider a topsoil cover of 6 inches with an application of at least 10 ton/acre of compost manure.*

The approved reclamation plan does not mention any work on the waste rock pile such as re-contouring or adding topsoil. Included in the bond amount is "re-seeding all disturbed areas" only. Except for the tailing impoundment area and access road, which are listed separately, Dixie Cable Services is currently using most of the disturbed areas for their operations. It was previously mentioned why the rock pile should not be a problem. Also, in accordance with the sales agreement the rock pile is not to be removed or to be redistributed on the property.

3. **Reclamation of the ore stockpile area, the crusher pocket and pocket feeder.** We question the need for these facilities for the proposed post-mining land use. *Unless it can be demonstrated that these facilities are needed, Hecla will need to remove them and reclaim the associated surface disturbance.*

As mentioned above, Dixie Cable has assumed responsibility for this activity. Hecla is not privy to intentions of Dixie Cable Services or to the land uses. Hecla has no authority to remove items that now belong to Dixie Cable Services.

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I would like to meet with you to discuss these issues next month and also set up a site visit to discuss and resolve these matters.

Please contact me if there are any questions.

Very truly yours,

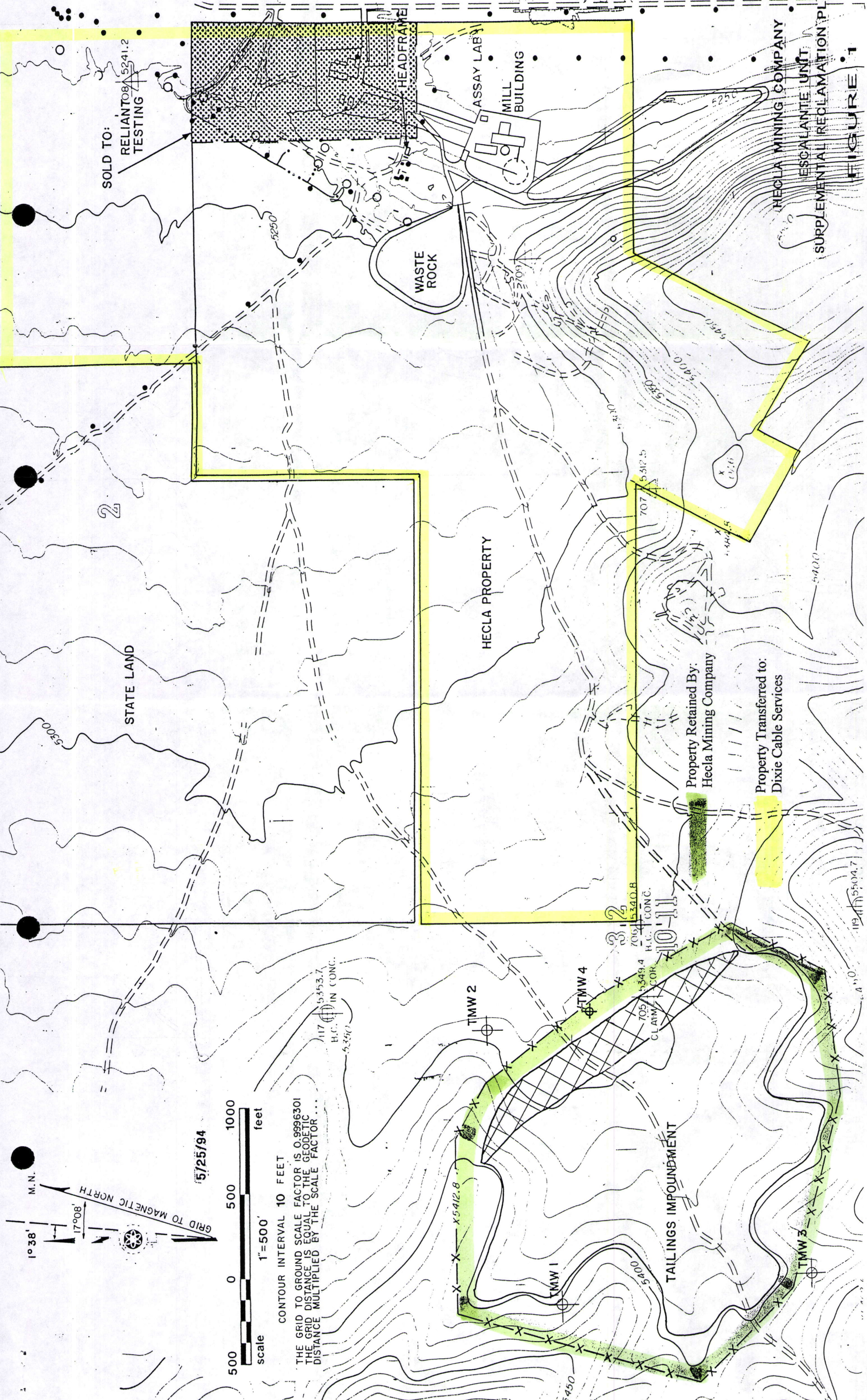


David O. Suhr  
Idle Properties Manager

DOS:cms

Attachments







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